

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF EASTERN PENNSYLVANIA
PHILADELPHIA DIVISION**

IN RE:) Case No. 18-12944-jkf
) Chapter 13
)
) Courtroom 3
NORIS SANTIAGO,) Robert N.C. Nix, Sr.
) Federal Courthouse
) 900 Market Street
) Philadelphia, Pennsylvania
Debtor.)
) May 31, 2018
) 9:34 a.m.

TRANSCRIPT OF EXPEDITED MOTION FOR RELIEF FROM STAY/EXPEDITED
MOTION OF BARBARA WOLF FOR AN ORDER GRANTING RELIEF FROM
AUTOMATIC STAY UNDER 11 U.S. CAPITAL, SECTION 362; MOTION TO
DISMISS DEBTOR AS BAD FAITH FILING AND FOR EXPEDITED REVIEW
PURSUANT TO LOCAL RULE 5070-1(G) BY CITY OF PHILADELPHIA;
MOTION TO EXTEND AUTOMATIC STAY
BEFORE HONORABLE JEAN K. FitzSIMON
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: Law Offices of David A. Scholl
By: DAVID A. SCHOLL, ESQ.
512 Hoffman Street
Philadelphia, Pennsylvania 19148

For the City of Philadelphia: City of Philadelphia
By: PAMELA ELCHERT THURMOND, ESQ.
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APPEARANCES:
(continued)

For Barbara Wolf:

Bielli & Klauder, LLC
By: NELLA BLOOM, ESQ.
THOMAS BIELLI, ESQ.
1500 Walnut Street, Suite 900
Philadelphia, Pennsylvania 19102

1 COURTROOM DEPUTY: This is the 9:30 list for May the
2 31st, Noris Santiago, expedited motion for relief from stay
3 filed by Barbara Wolf; motion to dismiss filed by the City of
4 Philadelphia; and motion to extend the automatic stay.

5 Could counsels make their appearances?

6 MR. SCHOLL: David Scholl for the debtor.

7 MS. THURMOND: Pamela Thurmond on behalf of the
8 movant, the City of Philadelphia.

9 MS. BLOOM: Nella Bloom and Thomas Bielli of Bielli &
10 Klauder, here on behalf of Barbara Wolf.

11 THE COURT: All right. Mr. Scholl --

12 MR. SCHOLL: Yes?

13 THE COURT: -- I understand you're not prepared to go
14 forward. Do you want to talk to me about that?

15 MR. SCHOLL: Yes. I have lost contact with my
16 client, except for an e-mail that he sent me yesterday, which
17 did cause me to call opposing counsel, and ultimately the
18 Court, because -- and I can read the entire e-mail, but it
19 basically was requesting a continuance because Mrs. Santiago
20 had a doctor's appointment today.

21 I did attempt to get more detail because when I
22 called Ms. Thurmond about it, she wanted more detail. But I
23 couldn't get my client again.

24 I saw the client -- just by way of explanation, I
25 think I ought to give a little bit. On the 20th, we met at

1 some length, and went through the whole schedules, went through
2 at least tentatively what we would present today. And then
3 from then on, I -- and even the situation -- Mr. Santiago asked
4 me for the exhibits. He promised he would return them later in
5 the week; I never got the exhibits back, so the binder's gone.
6 I don't have the additional exhibits that I hoped to get from
7 him.

8 And I had no other communications other than this
9 very brief request for a continuance, which I felt I had to act
10 on, but I didn't -- I wasn't very comfortable with the way
11 things were developing.

12 THE COURT: I understand that, and I have no
13 objection to your handling of this matter.

14 However, I'm not going to allow them to suddenly
15 announce that there is a doctor's appointment without more,
16 that's scheduled.

17 So I'm going to ask Ms. Thurmond and Ms. Bloom/Mr.
18 Bielli whether they wish me to dismiss this as a bad faith
19 filing, or to grant the motion for relief.

20 MS. THURMOND: Your Honor, on behalf of the City of
21 Philadelphia, we would favor dismissal of this case.

22 MR. BIELLI: May I have a minute, Your Honor?

23 THE COURT: You may.

24 (Pause)

25 THE COURT: Mr. Scholl, are you receiving your fees

1 under the plan in this case, or did you already get paid?

2 MR. SCHOLL: Excuse me, Your Honor?

3 THE COURT: Did you -- are you receiving your fees
4 under the plan payments in this case, or have you already been
5 paid?

6 MR. SCHOLL: Well, I received a retainer. I haven't
7 -- and, of course, I can't receive anything afterwards. I --

8 THE COURT: Okay.

9 MR. SCHOLL: It did appear I was hitting some hours
10 and time that I --

11 THE COURT: You -- if I dismiss this, you want me to
12 do that with a retainer of jurisdiction --

13 MR. SCHOLL: Your Honor, I would greatly appreciate
14 that.

15 THE COURT: That's -- I just thought -- I like to
16 make sure that I do that. I don't like to see lawyers not get
17 paid.

18 MR. SCHOLL: Do you have a specific order that you
19 use for that, Your Honor?

20 THE COURT: Well, we have one that we -- yeah, that
21 requires -- that you -- that we notice out for other admin
22 expenses, and I don't think there are going to be any in this
23 case.

24 MR. SCHOLL: Is it in your set of forms? Is it in
25 your forms?

1 COURTROOM DEPUTY: Yes.

2 MR. SCHOLL: Oh, okay. I'll look. I should be able
3 to find it, and if I can't, I'll, of course, ask Ms. Ranieri.

4 THE COURT: Yeah, I'll --

5 MR. SCHOLL: She'll be very helpful, as she always
6 is.

7 THE COURT: What I'm going to do is I'm going -- I am
8 going to task you with drafting the order because I want to --
9 we're going to talk about what it's going to say. But since
10 you want to put in the retention, I'll let you do the drafting
11 work, and let everybody else see it. But we'll talk about what
12 it's going to say first, okay?

13 MR. SCHOLL: Oh, okay. All right.

14 THE COURT: If they ever figure out what it is they
15 want.

16 MR. SCHOLL: All right.

17 (Pause)

18 MR. SCHOLL: My wife reminds me that we did retain
19 the interpreter, although we did tell the interpreter it was
20 unlikely to go forward this morning. So -- because we would
21 have had to pay an additional charge, so --

22 THE COURT: Is she going to charge you since you've
23 retainer her or --

24 MR. SCHOLL: Yeah, there's going to be a charge.

25 THE COURT: All right. Well, I -- well --

1 MR. SCHOLL: Although I will say that I was given
2 some funds for that. I don't know if it's going to cover all
3 of it, but I -- I did get some compensation.

4 THE COURT: Have they made any payments under their
5 plan at all?

6 MR. SCHOLL: You know, I haven't checked it, Your
7 Honor. There only -- there only would have been, I guess, one
8 due, 2000.

9 THE COURT: Okay.

10 MR. SCHOLL: I hope. I'm not too optimistic, yeah.

11 THE COURT: Yeah. Mr. Bielli, this is not going to
12 take all that long.

13 MR. BIELLI: No, I'm done, Your Honor; sorry.

14 THE COURT: Okay, all right. Your druthers?

15 MR. BIELLI: We -- we would like both.

16 THE COURT: Well, if I dismiss it, you don't need
17 relief from the stay.

18 MR. BIELLI: I agree.

19 THE COURT: So you will have relief from the stay,
20 you get that automatically.

21 MR. BIELLI: Okay.

22 THE COURT: All right?

23 MR. BIELLI: Thank you, Judge.

24 THE COURT: Now as a result, I am going to -- I'm
25 going to treat the expedited motion for relief as moot because

1 I am dismissing this as a bad faith filing.

2 I am going to need a new form of order because we
3 want to retain jurisdiction so that Mr. Scholl can apply for
4 his fees, and we can check for any other admin expenses that
5 may have been incurred.

6 You may advise your clients that they are darn lucky
7 that I'm not going to impose the payment of the fees for both
8 of these parties for appearing at two hearings. So they should
9 be aware that they're getting off lightly by my doing this.

10 MS. BLOOM: Your Honor, one more request, to add onto
11 our dismissal request, which would be to impose a bar.

12 THE COURT: I'm planning on imposing a bar.

13 MS. BLOOM: Thank you, Your Honor.

14 THE COURT: Mr. Scholl, what I want is an order
15 dismissing this case with a two-year bar, obviously subject to
16 relief from -- by motion to the Court as a bad faith filing,
17 with a retention of jurisdiction, and you'll see the language
18 that's in our form order that you can use so that you'll have -
19 - that will have to be noticed out so that other parties can
20 apply for administrative claims.

21 Anything else we need to cover here this morning?

22 MS. THURMOND: No, thank you, Your Honor.

23 MR. BIELLI: Nothing. Not for my clients then, Your
24 Honor; thank you.

25 THE COURT: Mr. Scholl, we've all had terrible

1 clients in our lives, and I suspect that this is probably the
2 best thing I can do for you right now, which is get rid of them
3 on your behalf.

4 All right. The motion to extend the automatic stay
5 obviously is moot as the case has been dismissed.

6 Very good. Thank you, all, very much.

7 MR. BIELLI: Sorry, Your Honor. Mr. Scholl, you're -
8 - are you going to circulate -- circuit the order?

9 THE COURT: Yeah, he'll circulate the order.

10 MR. BIELLI: Okay.

11 MR. SCHOLL: Okay, I will do that, Your Honor.

12 THE COURT: Okay.

13 MR. SCHOLL: I'll make sure I have the right order
14 before I begin, but I -- when I get back, I'll -- I'll tend to
15 it.

16 THE COURT: If you have any problems, call Joan,
17 she'll help you.

18 MS. THURMOND: Your Honor, I can send my form of
19 order motion to dismiss, and then he can just add on the
20 retention of jurisdiction.

21 COURTROOM DEPUTY: (Indiscernible).

22 THE COURT: All right. Joan's going to send you a
23 copy of the order to --

24 MR. SCHOLL: Oh, okay.

25 THE COURT: Retaining jurisdiction.

1 MR. SCHOLL: All right.

2 THE COURT: All right?

3 MR. SCHOLL: Thank you very much, I appreciate it.

4 Thank --

5 THE COURT: Yeah, but, Ms. Thurmond, yours doesn't
6 have the bar.

7 MS. THURMOND: Yeah, so --

8 THE COURT: And so -- so Mr. Scholl is perfectly
9 capable of drafting a simple two-year bar with absent leave of
10 the Court, so --

11 MR. SCHOLL: Okay.

12 MS. THURMOND: Very good, Your Honor.

13 THE COURT: All right?

14 MR. SCHOLL: All right.

15 MS. BLOOM: Thank you, Your Honor.

16 THE COURT: Very good.

17 MR. BIELLI: It will be --

18 THE COURT: I am remiss, there is one question I
19 should ask.

20 MR. BIELLI: Yes?

21 THE COURT: I take it there was no indication that
22 this was an emergency doctor's appointment.

23 MR. SCHOLL: No, Your Honor. The substance was a
24 very short e-mail that said -- well, I can read it, I mean do
25 you --

1 THE COURT: No, I -- I --

2 MR. SCHOLL: It's short enough.

3 THE COURT: Absent his having explained to you that
4 mom, you know, had a heart attack last night and had to see the
5 doctor this morning, this result is obtained, okay?

6 MR. SCHOLL: All right.

7 THE COURT: Very good. Thank you, all, very much.

8 MS. THURMOND: Thank you.

9 MS. BLOOM: Thank you, Your Honor.

10 THE COURT: All right. Good luck --

11 MR. BIELLI: Have a good morning, Your Honor.

12 THE COURT: -- with the renovations on the property.

13 (Whereupon, at 9:45 a.m., the hearing was adjourned.)

14

15 CERTIFICATE OF TRANSCRIBER

16 I, KAREN HARTMANN, a certified Electronic Court
17 Transcriber, certify that the foregoing is a correct transcript
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